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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,031	12/12/2003	Giuseppe Monti	377/9-1899	2463
28147	7590	09/24/2004	EXAMINER	
WILLIAM J. SAPONE COLEMAN SUDOL SAPONE P.C. 714 COLORADO AVENUE BRIDGE PORT, CT 06605			TRUONG, THANH K	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/735,031	<b>Applicant(s)</b> MONTI, GIUSEPPE	
	<b>Examiner</b> Thanh K Truong	<b>Art Unit</b> 3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/17/04</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recited: "carrier means for conveying said ... for hitting and catching said foremost object, and for withdrawing said foremost object ..." (lines 12-19), and "conveying means for the withdrawn objects" (lines 20); these two claimed features seem to be the same feature, because they both withdrawn the object 10. It is unclear what is the different between the two claimed features (withdrawing means vs. conveying means) as recited in claim 1.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1-9, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsuji et al. (4,901,504).

Tsuji discloses (figures 1-4 and 5a) an apparatus comprising:

carrier means 44 for hitting and catching the foremost object 41 in the terminal section of the channel 42;

withdrawing means 70 for conveying the carrier means 44 to pass through the terminal section, for hitting and catching the foremost object 41, and for withdrawing the foremost object from the outlet channel 42, the withdrawing means 70 being capable of overcoming the contrast action of the holding means thus causing forward movement of the row of objects until a subsequent foremost object, to be withdrawn, is retained by the holding means, and

conveying means 80 for the withdrawn objects, operatively connected to the withdrawing means for directing and arranging the objects, regularly spaced out, along the same conveying direction and for conveying the equidistantly set objects to a manipulation station D (figures 1 & 2).

Tsuji further discloses: carrier means 44 include a plurality of protrusions (figure 5a) and conveying means 80 include at least one endless conveying belt (figure 5a) and withdrawing means 70 include driving means of the conveying belt (figure 5a), the protrusions hit and catch the foremost object and conveyed, spaced out along the conveying direction toward the manipulation station D (as in claims 2 & 3); the conveying belt 80 is arranged beside a conveying line of bottles 38, with which the withdrawn and equidistant objects are to be coupled, with the conveying line conveying the bottles to the manipulation station D (figures 1 & 2), and the conveying belt is moved in the direction opposite to the movement direction of the conveying line (as in claims 4-7) – figure 2 shows that the conveying belt 80 is an endless belt moves in a closed

configuration, and the portion that is line-up with the channel 42 is move in the direction opposite to the movement of the conveying line that carries the bottles 38; a robotized handling device, includes a working head 46, is situated in the manipulation station D for picking up and transferring the group of objects from the protrusions of the conveying belt to the conveying line (as in claims 8 & 9); the conveying belt and the conveying line are operated stepwise, in mutual step relation (figures 1 & 2), and figure 3 shows that at least two conveying belts, situated one beside another and beside a line for conveying containers (as in claims 12 & 13).

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Stirnkorb et al. (UK Patent Application GB 2,280,428).

Stirnkorb discloses (figures 1& 2) an apparatus comprising:

carrier means 24 for hitting and catching the foremost object 12 in the terminal section of the channel 13;

withdrawing means for conveying the carrier means 24 to pass through the terminal section, for hitting and catching the foremost object 12, and for withdrawing the foremost object from the outlet channel 13, the withdrawing means being capable of overcoming the contrast action of the holding means 19, 20 thus causing forward movement of the row of objects until a subsequent foremost object, to be withdrawn, is retained by the holding means, and

conveying means 22 for the withdrawn objects, operatively connected to the withdrawing means for directing and arranging the objects, regularly spaced out, along

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the same conveying direction and for conveying the equidistantly set objects to a manipulation station 30 (figures 1 & 2).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stirnkorb et al. (UK Patent Application GB 2,280,428).

As discussed above in paragraph 5 of this office action, Stirnkorb discloses the claimed invention, but does not expressly disclose that the conveying means include a conveying belt. However, the examiner take Official Notice that in the art of bottle capping, the conveying means 22 of Stirnkorb is the equivalent of the endless conveying belt in the claimed invention, because the conveying means 22 delivering the cap to the capping station from the outlet channel as the conveying belt in the claimed invention does and it is immaterial whether the conveying means is a reciprocating platform or a conveying belt. Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have used the conveying means 22 as taught by Stirnkorb to provide a means to deliver caps from the outlet channel to the manipulation station.

Stirnkorb further discloses: carrier means 24 include a plurality of protrusions; the withdrawing means include driving means - reciprocating thus has driving means (as in claims 2-3); conveying means 22 is arranged beside a conveying line 45, 46 of bottles 10; the conveying means 22 is moved in the direction opposite to the movement direction of the conveying line 45, 46 - as conveying means 22 reciprocating, the return toward the channel 13 direction is opposite direction of the movement of the conveying line 45, 46 (as in claims 4-7); a robotized handling device 30 includes working head 28 (as in claims 8 & 9); sensor 48 situated in the manipulation station for detecting and controlling the capping process (as in claims 10 & 11); and the conveying means 22 and the conveying line 45, 46 are operated stepwise, in mutual step relation (as in claim 12).

Although Stirnkorb does not expressly disclose the sensor means as recited in claims 10 and 11, the examiner take Official Notice that using sensor means to detect part or absent of part and manipulating the control apparatus is well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified Stirnkorb's apparatus by using the sensor means to verify the presence of the objects and the respective protrusions and to detect the correct matching of the position of the group objects on the conveying means with respect to the bottles on the conveying line. The modifying apparatus would provide a better capping apparatus.

### ***Conclusion***

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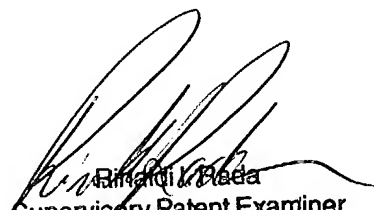
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K Truong whose telephone number is (703) 605-0423. The examiner can normally be reached on Mon-Thurs from 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tkr  
September 15, 2004.

  
Rinaldi I Rada  
Supervisory Patent Examiner  
Group 3700